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**JUL 03 2008**

**OFFICE OF PETITIONS**

In re Patent No. 7,158,627	:
James J. Lu	: LETTER REGARDING PATENT
Issued: January 2, 2007	: TERM ADJUSTMENT AND
Application No. 09/821,509	: NOTICE OF INTENT TO ISSUE
Filed: March 29, 2001	: CERTIFICATE OF CORRECTION
Atty Docket No.: 065968.0144	:

This letter is in response to the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR § 1.705," filed February 13, 2007. Pursuant to patentee's duty of good faith and candor to the Office, patentee requests that the determination of patent term adjustment under 35 U.S.C. 154(b) be reviewed for accuracy. Patentee states that the patent term adjustment for the above-identified patent should be set at 909 days instead of 1,147 days.

The request for review of the determination of patent term adjustment is granted.

The patent term adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised patent term adjustment of **852 days**.

On January 2, 2007, the above-identified application matured into U.S. Patent No. 7,158,627, with a revised patent term adjustment of 1,147 days. On February 13, 2007, patentee submitted the instant comment.

Patentee stated that the period of patent term adjustment should be reduced by an additional 238 days pursuant to 37 CFR § 1.704(c)(3). Specifically, patentee direct the Office's attention to the abandonment of the application for failure to timely submit corrected drawings in response to the Notice of Allowability mailed on October 28, 2005.

Pursuant to 37 CFR § 1.704:

(c) Circumstances that constitute a failure of the applicant to engage in reasonable efforts to conclude processing or examination of an application also include the following circumstances, which will result in the following reduction of the period of adjustment set forth in § 1.703 to the extent that the periods are not overlapping:

(3) Abandonment of the application or late payment of the issue fee, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the date of abandonment or the date after the date the issue fee was due and ending on the earlier of:

(i) The date of mailing of the decision reviving the application or accepting late payment of the issue fee; or

(ii) The date that is four months after the date the grantable petition to revive the application or accept late payment of the issue fee was filed;

(4) Failure to file a petition to withdraw the holding of abandonment or to revive an application within two months from the mailing date of a notice of abandonment, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date two months from the mailing date of a notice of abandonment and ending on the date a petition to withdraw the holding of abandonment or to revive the application was filed[.]

A review of the application history confirms that the period of adjustment should have been reduced pursuant to 37 CFR §§ 1.704(c)(3)(i) and 1.704(c)(4) to the extent the periods are not overlapping. On October 28, 2005, the Office mailed a Notice of Allowance and Fee(s) Due and a Notice of Allowability, requiring the filing of a reply on or before Monday, January 30, 2006. As patentee did not file a timely and proper reply to the

Notice of Allowability, the application became abandoned. A Notice of Abandonment was mailed on March 28, 2006.

On May 31, 2006, patentee filed a petition under 37 CFR § 1.181 to withdraw the holding of abandonment. A decision dismissing the petition to withdraw the holding of abandonment was mailed on August 4, 2006. On August 15, 2006, patentee filed a petition under 37 CFR § 1.137(a) to revive the application. A decision granting the petition to revive was mailed on November 21, 2006.

Patentee should have been assessed delay for failing to file the petition to withdraw the holding of abandonment within two months from the mailing date of the Notice of Abandonment. See 37 CFR § 1.704(c)(4). Additionally, patentee should have been assessed delay for the abandonment of the application. See 37 CFR § 1.704(c)(3)(i).

As stated in 37 CFR § 1.704(c), patentee's failure to engage in reasonable efforts to conclude processing or examination of an application will result in the reduction of the period of adjustment set forth in § 1.703 to the extent that the periods are not overlapping. In this instance, the periods under 37 CFR §§ 1.704(c)(4) and 1.704(c)(3)(i) overlap. Specifically, the period of overlap is May 29, 2006 to May 31, 2006. Thus, the period of adjustment should be reduced by 295 days, the number of days beginning on the date after the date the issue fee was due, January 31, 2006, and ending on the lesser period of the date of mailing of the decision reviving the application, November 21, 2006. See 37 CFR § 1.704(c)(3)(i). The period of three days for failure to file the petition to withdraw the holding of abandonment within two months from the mailing date of the Notice of Abandonment is completely overlapped and no further delay is being assessed.

In view thereof, the patent should have issued with a revised patent term adjustment of **852 days** (1,176 days of Office delay - 324 days of applicant delay).

As this letter was submitted as an advisement to the Office of an error in patentee's favor, the Office will not assess the \$200.00 fee as set forth in 37 CFR 1.18(e). The Office thanks

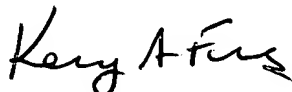
Patent No. 7,158,627  
Application No. 09/821,509

Page 4

patentee for his good faith and candor in bringing this to the attention of the Office.

This matter is being referred to the Certificate of Correction Branch for issuance of a certificate of correction to rectify this error. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **852 days**.

Telephone inquiries specific to this matter should be directed to Christina Tartera Donnell, Senior Petitions Attorney, at (571) 272-3211.

A handwritten signature in black ink, reading "Kery A. Fries". The signature is written in a cursive, slightly slanted style.

Kery A. Fries  
Senior Legal Advisor  
Office of Patent Legal Administration

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE  
**CERTIFICATE OF CORRECTION**

PATENT : 7,158,627

DATED : Jan. 2, 2007

INVENTOR(S) : Lu.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[\*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 1147 days

Delete the phrase "by 1147 days" and insert – by 852 days--

Day : Wednesday

**PALM INTRANET**

Date: 7/2/2008

Time: 12:23:40

**PTA Calculations for Application: 09/821509**

Application Filing Date:	03/29/2001	PTO Delay (PTO):	1176
Issue Date of Patent:	01/02/2007	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	29
Post-Issue Petitions:	0	Total PTA (days):	852
PTO Delay Adjustment:	-295		

**File Contents History**

Number	Date	Contents Description	PTO	APPL	START
52	07/02/2008	ADJUSTMENT OF PTA CALCULATION BY PTO		295	
48.5	12/13/2006	PTA 36 MONTHS			
48	01/02/2007	PATENT ISSUE DATE USED IN PTA CALCULATION	275		32
47	12/01/2006	EXPORT TO FINAL DATA CAPTURE			
46	11/30/2006	DISPATCH TO FDC			
45	11/21/2006	MAIL-RECORD PETITION DECISION OF GRANTED TO ACCEPT DELAYED PAYMENT OF ISSUE FEE			
44	08/15/2006	PETITION ENTERED			
43	08/04/2006	MAIL-PETITION DECISION - DISMISSED			
42	05/31/2006	PETITION ENTERED			
41	05/09/2006	MAIL MISCELLANEOUS COMMUNICATION TO APPLICANT			
40	04/06/2006	MISCELLANEOUS COMMUNICATION TO APPLICANT - NO ACTION COUNT			
38	03/28/2006	MAIL ABANDONMENT FOR FAILURE TO CORRECT DRAWINGS/OATH			
37	03/28/2006	ABANDONMENT FOR FAILURE TO CORRECT DRAWINGS/OATH/NONPUB REQUEST			
36	03/21/2006	CASE DOCKETED TO EXAMINER IN GAU			
35	12/15/2005	FINISHED INITIAL DATA CAPTURE			
34	12/14/2005	APPLICATION IS CONSIDERED READY FOR ISSUE			
33	12/13/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
32	12/02/2005	ISSUE FEE PAYMENT VERIFIED			
31	12/02/2005	ISSUE FEE PAYMENT RECEIVED			

30	11/02/2005	EXPORT TO INITIAL DATA CAPTURE			
29	10/28/2005	MAIL NOTICE OF ALLOWANCE			
28	10/19/2005	ISSUE REVISION COMPLETED			
27	10/19/2005	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
26	10/17/2005	NOTICE OF ALLOWABILITY			
25	09/15/2005	DATE FORWARDED TO EXAMINER			
24	09/09/2005	RESPONSE AFTER NON-FINAL ACTION			
23	06/16/2005	MAIL NON-FINAL REJECTION			
22	06/13/2005	NON-FINAL REJECTION			
21	05/06/2005	CORRESPONDENCE ADDRESS CHANGE			
20	04/12/2005	DATE FORWARDED TO EXAMINER			
19	03/16/2005	RESPONSE AFTER NON-FINAL ACTION		29	16
18	03/16/2005	REQUEST FOR EXTENSION OF TIME - GRANTED			
16	11/15/2004	MAIL NON-FINAL REJECTION	901		-1
15	11/12/2004	NON-FINAL REJECTION			
14	09/21/2004	CASE DOCKETED TO EXAMINER IN GAU			
13	09/16/2004	CASE DOCKETED TO EXAMINER IN GAU			
12	07/21/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
11	06/07/2004	MISCELLANEOUS INCOMING LETTER			
10	03/12/2002	CASE DOCKETED TO EXAMINER IN GAU			
9	05/26/2001	CASE DOCKETED TO EXAMINER IN GAU			
8	03/29/2001	REQUEST FOR FOREIGN PRIORITY (PRIORITY PAPERS MAY BE INCLUDED)			
7	03/29/2001	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
6	05/15/2001	APPLICATION DISPATCHED FROM OIPE			
5	05/14/2001	CORRESPONDENCE ADDRESS CHANGE			
4	05/14/2001	CORRESPONDENCE ADDRESS CHANGE			
3	05/14/2001	CORRESPONDENCE ADDRESS CHANGE			
2	04/12/2001	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	03/29/2001	INITIAL EXAM TEAM NN			

Search Another: Application#

#### EXPLANATION OF PTA CALCULATION

#### EXPLANATION OF PTE CALCULATION

To go back, right click here and select Back. To go forward, right click here and select Forward. To refresh, right click here and select Refresh.

Back to [OASIS](#) | Home page